

EXHIBIT 3

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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LISA MENNINGER,

Plaintiff,

V. Civil Action No. 1:19-CV-11441-LTS

PPD DEVELOPMENT, L.P.,

Defendant.

- - - - - x

DEPOSITION OF

MARTIN J. KELLY, M.D.

APPEARING REMOTELY FROM

Westport Point, Massachusetts

February 10, 2021

10:05 a.m.

Reporter: Rosemary F. Grogan, RPR, CSR No. 112993

Appearing Remotely from Norfolk County, Massachusetts

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1 A. I think he diagnosed generalized anxiety
2 disorder and maybe social phobia.

3 Q. And in connection with this matter, you
4 reviewed those records from that psychiatrist, correct?

5 A. I did.

6 Q. And you think that that diagnosis was
7 incorrect?

8 A. If she had social anxiety disorder, social
9 phobia, it is -- in my opinion, doesn't warrant the full
10 diagnosis of it. I think that if it's present, it did
11 not substantially affect her work performance, for
12 example, which is the main area she was complaining,
13 either at PPD or other settings, employment or school or
14 the like.

15 So if present, it was a milder version of it.
16 And again, the problem is with DSM -- well, I think the
17 language in DSM is substantial interference with an
18 important area or functioning.

19 Q. But back to my question, sir, which was: Do
20 you believe that that psychiatrist you referenced
21 earlier, who diagnosed Dr. Menninger with generalized
22 anxiety disorder, do you think he simply got that
23 diagnosis wrong?

24 A. I would disagree with him, if you will, yes.

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1 Q. But it's your view that those -- the diagnoses
2 by Dr. Kessimian are incorrect?

3 A. I disagree with them.

4 Q. And why did you disagree with Dr. Kessimian's
5 diagnoses?

6 A. Because I really don't think that she has a
7 substantial disruption in her functioning on the basis
8 of these psychiatric conditions to the degree they might
9 be present.

10 Q. You mentioned before the possibility that
11 Dr. Menninger may have a milder version of some kind of
12 disorder.

13 Did I hear that correctly?

14 A. Yes.

15 Q. What do you mean by that?

16 A. That, if present, social anxiety disorder did
17 not result in a substantial disruption of her capacity
18 to function.

19 Q. But you're not excluding the possibility that
20 she may suffer from such a disorder, correct?

21 A. Correct.

22 Q. Do you have an opinion one way or the other as
23 to whether or not Dr. Menninger suffers from a mental
24 disorder?

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1 Q. Why?

2 A. Because I don't think she -- she may have
3 anxiety in meeting settings, as many individuals do, but
4 I don't think it warranted the diagnosis of generalized
5 anxiety disorder and I don't think it warranted the
6 diagnosis of social phobia.

7 So to that degree, I disagree with him.

8 Q. And then in your examination of Dr. Menninger
9 in talking about her history, you talked about the
10 events that led to her disclosing her situation to PPD,
11 correct?

12 A. Correct.

13 Q. And she told you about why she went and saw
14 Dr. Kessimian?

15 A. Yes.

16 Q. And you reviewed Dr. Kessimian's records
17 correct?

18 A. Yes, correct.

19 Q. And you saw Dr. Kessimian had diagnosed
20 Dr. Menninger with social disorder, right?

21 A. Yes.

22 Q. And you saw Dr. Kessimian had diagnosed
23 Dr. Menninger with panic disorder, right?

24 A. I believe, yes.

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1 A. Again, my focus was on what was presented to
2 me.

3 Q. Sure. I appreciate that, which is why I'm
4 asking this follow-up question, and I'll be a bit more
5 specific.

6 Do you have an opinion one way or the other as
7 to whether or not Dr. Menninger suffered from a mental
8 disorder during the time she was employed at PPD?

9 A. No.

10 Q. Okay. And to be clear, it's not your claim
11 that Dr. Menninger was faking it, right?

12 A. No.

13 Q. No, that's not your view?

14 A. I don't think she was faking.

15 Q. And while you may believe the disruption she
16 was suffering didn't rise to the level of a full
17 diagnosis, you would agree that the symptoms that
18 Dr. Menninger complained of, with respect to the
19 anxiety, that they did have a meaningful impact on her;
20 is that fair to say?

21 MS. MANDEL: Objection.

22 A. I'm not sure I understand the question. Could
23 you clarify that for me, please?

24 Q. Sure.